

A Woman's Status under Roman Law and in the Early Church

By [Joseph Manning](#)

Women in Roman law were never completely independent. J.F. Gardner, *Women in Roman Law and Society*, p. 5 (Indiana University Press 1991). The [pater familias](#) created an unbalanced power dynamic in at least a legal sense. R.P. Saller, *Patriarchy, Property and Death in the Roman Family*, p. 104 (Cambridge University Press 1994). Roman society was a patriarchy that was very concerned with morality, and women were either subservient or stigmatized.



Take for example, the [lex Iulia de adulteriis](#) passed by [Emperor Augustus](#). This legislation reflected the imbalanced power structure inherent in Roman society. Emperors Septimius Severus and Caracalla writing in 197 C.E. tell us: “The *lex Iulia* states that in a public trial women cannot bring an accusation of adultery even if they wish to complain about a violation of their own marriage. Although it conferred on males the capacity to accuse by a husband’s right, it did not confer the same privileged on females.” B.W. Frier and T.A.J. McGinn, *A Casebook on Roman Family Law*, case 55, p. 120 (Oxford University Press, 2004). This biased legislation on adultery was the first time the Roman state became involved in familial conflicts, which were previously handled on a strictly private basis. David Cohen, “The Augustan Law on Adultery: The Social and Cultural Context,” p. 110, in *The Family in Italy* (eds., D.I. Kertzer & R. P. Saller Yale University Press 1999). Even though this law punishing adultery was biased against women, its passage was probably meant to help Roman women. This law systematized and institutionalized the legal punishments taking the power of punishment away from the private family and placing it in the state’s hands — women were no longer solely under the capricious and possibly murderous authority of fathers and husbands who might accuse them of adultery. So, Rome was very much a patriarchy — even the most liberal attempts to grant women more safety under the law appear barbaric and inequitable to a modern observer. On the other hand, some Roman women still could enjoy a large degree of freedom in their daily lives. Gardener at 5.

Roman women were generally classified between those who were married and unmarried. The minimum legal age of marriage for young women was twelve and around fourteen for young men. Frier and McGinn, case 7, at 27. These were not typical marrying ages but were minimums; most girls were actually married around the age of sixteen. Saller at 16. Women were expected to marry and to do so at a young age; those who did not faced few options. Generally, prostitution and [priesthood](#) were the only avenues available to freeborn women who did not marry. We can see the expectations placed on women when [Cicero](#) speaks about a wealthy woman named [Clodia](#) who he says was of “noble birth; but she also has a notorious reputation.” *Pro M. Caelio*, 12.29. Her poor reputation stemmed from her “cohabitations, adulteries, trips to Baeiae, beach parties, dinner parties, drinking

parties, musical parties, concert parties, boating parties..." *Id.* at 14.34. Clodia is an example that a wealthy woman was able to escape Rome's strong societal limitations – but not without suffering from a damaged reputation.

Christianity was a social group that spread through Roman society while uniquely dissenting with this traditional view of marriage as the preferred path for women. Paul writes: "To the unmarried and widows I say that it is well for them to remain unmarried as I am." 1 Cor 7:8. In effect, Christian women were allowed more societal freedom in their decisions concerning marriage because remaining unmarried was not simply tolerated as in Roman society, but was encouraged in the early church. Ben Witherington, *Women in the Earliest Churches*, p. 73 (Cambridge University Press 1988). Christianity had a stricter morality than Roman society; Christianity expected husbands to abstain from adultery where Roman society did not. Likewise, [in Roman society, divorce was very common](#), but in Christianity divorce was not taken lightly. Henry Chadwick, *The Early Church*, p. 59 (Clays Ltd 1993). This shift in standards only served to benefit Roman women and offered little to men. Likewise, Christian women were able to rise to positions of great authority in the early church.

Christianity dispelled conventional Roman societal barriers, and so it isn't surprising that Christianity was especially successful among women; converts tended to be upper class and the conversion was effected through the women in the family. *Id.* at 58. Status in Roman society was often based on a set of dichotomies like: wealthy and poor, slave and free, male and female. M.Y. MacDonald, "Reading Real Women Through the Undisputed Letters of Paul," p. 102, in *Women and Christian Origins* (eds. R.S. Kraemer, & M.R. D'Angelo, Oxford University Press 1999). These states were more or less fixed, and obviously the wealthy, free, males of society enjoyed the highest status while the poor, slave, females suffered the lowest. Yet, ambiguities arose when an individual was favored in one category but not another. For example, the status of a wealthy woman would have been more unclear in Roman society than most other groups. Demographics such as "freedpersons and women who displayed status inconsistency (indicators of higher status combined with lower status) were particularly attracted to Pauline Christianity with its paradoxical beliefs, such as the 'crucified Messiah.'" *Id.* Consider the Christian ethos: "If anyone wants to be first, he must be the very last, and the servant of all." Mark 9:35. Also, consider the radical statement: "There is no longer Jew or Greek, there is no longer slave or free, there is no longer male and female. . . ." Gal 3:28. On marriage, Paul writes that: "the wife does not have authority over her own body, but the husband does; likewise the husband does not have authority over his own body, but the wife does." 1 Cor. 7:4. These notions were emphatically incompatible with traditional Roman views of society and marriage.

Although Paul never once met Christ, he claimed to be the equal of the apostles and most of the New Testament is comprised of his writings.

These egalitarian promises are contradicted with more contentious passages. Consider Paul's exhortations for women to remain silent in the assemblies and to cover their heads. MacDonald at 199. Here Paul contradicts Christianity's promise of transforming or abandoning the hierarchical patterns of the traditional family unit. M.Y. MacDonald, *Early Christian Women and Pagan Opinion: The Power of Hysterical Women*, p. 145 (Cambridge University Press 1996). Paul establishes a sex-based hierarchy: "I want you to realize that the head of every man is Christ, and the head of the woman is man, and the head of Christ is God." He writes: "Every man who prays or prophesies with his head covered dishonors his head. And every woman who prays or prophesies with her head uncovered dishonors her head." Although Paul instructs both men and women, scholars agree that this passage is primarily targeted at women in the church. *Id.* at 146. Paul offers two reasons for this hierarchy: 1) "woman ought to have a sign of authority on her head;" and more enigmatically 2) "[because of the angels](#)" (i.e., the idea that fallen angels lusted after and sought out sex with mortal women).

[This head-covering, or veil, is commonly thought to be an isolated feature of Islam, but rather has its roots in Western culture as well.](#) These New Testament passages should be understood in terms of contemporary Roman society. These teachings were directed at actions "on the boundary between the private and the public, the house-church, and the outside world." *Id.* at 145. In Roman society, veils were symbols of a woman's marriage and some writers identified them as required clothing. B.W. Winter, *Roman Wives, Roman Widows: The Appearance of New Women in the Pauline Communities*, p. 78 (William B. Eerdmans Publishing Company 2003). The veil marked authority of a man in marriage, and removing it in public was interpreted by society as rejection of that authority. [Valerius Maximus](#) writes that a Roman man named Gallus told his wife: "To have your good looks approved, the law limits you to my eyes only. For them assemble the tools of beauty, for them look your best, trust to their closest familiarity. Any further sight of you, summoned by needless incitement, has to be mired in suspicion and crimination." *Id.* at 82. Removing the veil in public was grounds for divorce; however, Valerius considered divorce over this issue an example of "frightful marital severity." *Id.* The Roman veil was tied up in concepts of modesty, which were probably related to Paul's discussion of "the angels." Paul was probably concerned about outward appearances and chose to instruct his churches to err on the side of Roman societal conservatism. MacDonald, *Early Christian Women and Pagan Opinion* at 146. Rather than arising from an ideology within the church, customs of gender bias seem to have been superimposed from without by Roman society. The Christian requirement of the veil was probably an attempt to remain above criticism from non-Christian Romans by exemplifying the Roman society's virtues on top of the morality imposed by the Christian religion.





Early Christian groups as well as Roman society at large required women wear veils. This is a practice not isolated to Islam.

The other infamous rule for women is found a little further in the same letter. Paul seems to be very strict in this decision: “As in all the churches of the saints, women should be silent in the churches. For they are not permitted to speak, but should be subordinate, as the law also says. If there is anything they desire to know, let them ask their husbands at home. For it is shameful for a woman to speak in church.” This passage has been argued to be an addition to the text from notes made on the margins by editors. Witherington at 90. This argument is put forward for a number of reasons, but primarily, the basis is the inconsistency with the previous statements about women prophesying and praying. This argument doesn’t make much sense though, because it makes one wonder why the interpolator would not have seen this very obvious contradiction. *Id.* at 92. This line is more than likely not an interpolation. Paul here is addressing a specific issue in a specific context; he begins by saying that “God is a God not of disorder but of peace,” so apparently, for Paul, women asking questions in the church somehow resulted in disorder.

Despite the contradictory messages we find in Paul’s letters about gender hierarchies, we know for a fact that women in Christianity held positions of authority that were unprecedented in Roman society. Even when Paul is commanding women to wear veils, the order is only intended when a woman “prays or prophesies.” 1 Cor 11:5. Presumably then a woman who was not engaging in these activities did not have to wear veil. But, also here we find Paul explicitly sanctioning that women were allowed to prophesy in public. The office of prophet was ranked very highly in the Pauline church: “God has appointed in the church first apostles, second prophets, third teachers, then deeds of power, then gifts of healing, forms of assistance, forms of leadership, various kinds of tongues.” 1 Cor. 13:27-28. Also, we don’t just find female prophets in Corinth, but we see instances of them elsewhere: Phillip, a disciple of Jesus, was said to have four virgin daughters “who had the gift of prophecy.” Acts 21:9.

Women were not only prophetesses, but held other important church offices also. Of the two pastoral offices, only the diaconate is mentioned. There may be more references, but the instances which explicitly mention females are few. The use of the plural, masculine word *διάκονοι* (*diakonoi*) does not necessarily imply a group of only men. Kevin Madigan and Carolyn Osiek, *Ordained Women in the Early Church: A Documentary History*, p. 4 (The Johns Hopkins University Press 2005). The main sources for female office holders in the early church come from a few cases in Paul’s writings, a brief mention in the extra-canonical *Shepherd of Hermas*, and, possibly, a letter from the [younger Pliny](#) to the [Emperor Trajan](#). In Paul’s closing statements to the Roman church, he begins by writing: “I commend to you our sister [Phoebe](#), a deacon of the church at Cenchraea;” he says: “she has been a benefactor of many and of myself as well.” Romans 16:1-2. Here Paul emphasizes this woman’s importance to his mission. MacDonald, *Reading Real Women Through the Undisputed Letters of Paul* at 208. Likewise, a few lines later Paul greets [Prisca and Aquila](#), a couple who risked themselves for his life, and whom he calls his fellow workers. (See also Romans 16:7 “Andronicus and Junia . . . who are of note among the apostles. . . .”) Phoebe may not have been the holder of an established office, as the church was probably informal and very flexible at this time. *Id.* Phoebe’s duties probably included local ministering and acting as a representative of the community. Madigan and Osiek at 13. Paul’s commendation is typical of the praise given to letter bearers, and she probably delivered the letter in her function as representative. *Id.*; MacDonald, *Reading Real Women Through the Undisputed Letters of Paul* at 207. Unlike Pheobe, Paul never explicitly calls Prisca or Aquila deaconesses, but they were viewed by Paul as critical players in the budding church.

Later letters in the Pauline tradition reveal evidence that the ministry of the church had become more defined, and hints at the involvement of women. The author sets forth criteria for the role of deacon: “Deacons likewise must be serious, not double-tongued, not indulging in much wine, not greedy for money; they must hold fast to the mystery of the faith with a clear conscience. And let them first be tested; then, if they prove themselves blameless, let them serve as deacons. Women likewise must be serious...” The word used for women is γυναικας (*gunaikas*), and there is debate as to whether this ought to be taken to mean female deacons or only the wives of the male deacons. Madigan and Osiek at 18. But, a number of ancient commentators, such as [John Chrysostom](#) and [Pelagius](#) among others, held that this meant female deacons. *Id.* at 19-20.

In the *Shepherd of Hermas*, Hermas is instructed in his vision to make two copies of his writings and to give one to Clement and the other to a woman named Grapte, who “will admonish the widows and orphans.” *The Shepherd of Hermas*, Vision 2.4.2 (ANF Volume 2: CCEL.org). She is not assigned an actual office, yet it is evident that she had an important role in the church. Madigan and Osiek, at 26. Her assignment over widows and children is reflective of the duties that would later be assigned to the strictly female deaconesses in the coming centuries. *Id.*

The clearest example of female office holders in the early church comes not from a Christian writing, but from Pliny who writes to Emperor Trajan for instructions on how to deal with the crime of Christianity. In a letter he claims to have tortured two slaves for information. He says these two slave women were called deaconesses by the Christian community. *The Letters of the Younger Pliny*, 10.96. The actual Latin word he uses is *ministrae* and while it is widely held to have the same meaning as the Greek word *διάκονοι*, we can't be exactly certain. Madigan and Osiek at 26. Despite not being completely certain, it is still highly likely that these women were, in fact, deaconesses.



Gaius Plinius Caecilius Secundus, or Pliny the Younger, was a prodigious letter writer — many of his letters are extant. The most fascinating is perhaps his letters describing his first hand experience of the Mount Vesuvius eruption and the resultant death of Pliny the Elder.

The early Christians obviously possessed a theology that was rooted in some fundamental way to the patriarchal societies that preceded it; despite the radical tearing down of barriers found in the writings of Paul there was no attempt at political emancipation. Chadwick at 59. Wives were expected to be obedient to their husbands and serve the function of homemakers. *Id.* Yet, strong requirements were placed on the husbands as well. Christianity demanded individual responsibility and held those with authority to higher standards. This religion must have offered women, if not political emancipation, some form of protection or freedom of another kind. The offices women were allowed to possess, the concepts of equality that were bandied about, the safeguard against divorce and the release of pressure to be married must all have encouraged women to convert.